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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,866	12/03/2004	Andreas Witzel	P17157US1	2414

27045 7590 08/11/2006

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EXAMINER	
KARIKARI, KWASI	

ART UNIT	PAPER NUMBER
2617	

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/516,866	WITZEL ET AL.	
	Examiner	Art Unit	
	Kwasi Karikari	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 August 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17,19 and 20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17,19 and 20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03 December 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *12/03/2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 12/03/2004 is in compliance with the provision of 37 CFR 1.97, has been considered by the Examiner, and made of record in the application file.

Drawings

3. The drawings objected to because they include rectangular boxes without appropriate legends. For example, Figs. 1 and 2 need appropriate legends. Empty or not labeled rectangular boxes in a system are not descriptive, and therefore incomplete. See 37 CFR 1.83(a) and 1.84(o).

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. Restriction requirement with respect to Group II has been withdrawn. Applicant's provisionally elections, with traverse of Group I and II covering claims 1-17 and 19-20 in the reply filed on 07/28/2006 is acknowledged.

5. Claim 18 has been canceled.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-17,19 and 20 are rejected under U.S.C. 102(e) as being anticipated by Ejzak (20030027569 A1), (hereinafter Ejzak).

Regarding **claim 1,** Method for operating a switching node (iMSC in 151 interworking with 141, Pars. [0029 and 0046-47] and Fig. 1) of a communications network comprising the steps of:

receiving a communication service request; processing the requested communications service;(UE 111 initiates mobile call, see Fig. 5 steps 501 and 502);

determining an operation mode of the switching node, wherein the determined operation mode indicates whether the switching node is operatively for the processing of the requested communication service part of a layered architectural environment (see Par. [0046])providing a user plane layer for user data and a control plane layer for signaling data (node serves as traditional MSC, see Par. [0012, 0095-96] and Fig. 4, steps 403 and 404) , or

part of a non-layered architectural environment not providing a split between a user plane and a control plane (serving system acts as iMSC or MSC server, see Par. [0021, 0094, 0101] and Fig. 4, step 408), and wherein the processing of the requested communications service comprises the operating of the switching node in the determined operation mode (see Pars. [0013, 0052-54 and 0079]) .

Regarding **claim 2,** as recited in claim 1, Ejzak discloses the method, wherein the communications service request is a call set-up request (see Pars. [0104-07]).

Regarding **claim 3,** as recited in claim 1, Ejzak discloses the method, wherein the operation mode is determined according to at least one predetermined rule, which is

set-up according to available network capabilities (SIP for IMS internet-like functionality and services, see Pars. [0020-21 and 0028], whereby the protocol is associated with "predetermined rule").

Regarding **claim 4,** as recited in claim 1, Ejzak discloses the method, wherein a plurality of incoming routes (signaling link and signaling and data links) from an access network (RAN 121) to the switching node are provided, at least one predetermined rule comprises an assignment of a dedicated incoming route (signaling link) to an operation mode of the switching node, and wherein the step of determining the operation mode comprises a determination of an incoming route of the communication service request and a comparison of the determined incoming route against at least one predetermined rule (see Par. [0034-35]).

Regarding **claim 5,** as recited in claim 1, Ejzak discloses the method, wherein at least one predetermined rule comprises an assignment of a dedicated access technology to an 6peration mode, said dedicated access technology provided by an access network for serving a subscriber terminal (UE 111) of a communication system comprising the switching node, and wherein the step of determining the operation mode comprises the determination of the access technology used by the subscriber terminal and comparison of the determined access technology against at least one predetermined rule (communication system; 3G CDMA , see Pars. [0020 and 0024]).

Regarding **claim 6,** as recited in claim 1, Ejzak discloses the method, wherein the communication service request comprises an identifier of a communications service terminating party, at least one predetermined rule comprises an assignment of the identifier to a dedicated operation mode, and wherein the step of determining the operation mode comprises a determination of the identifier and a comparison of the determined identifier against at least one predetermined rule (SIP signaling between two 3GPP UE 111, see Par. [0080], whereby the 3GPP is associated with the "identifier ").

Regarding **claim 7,** as recited in claim 1, Ejzak discloses the method, wherein at least one predetermined rule indicates by means of a statistical distribution factor a distribution, for how many received communications service requests the switching node shall operate as a switching node of the layered architectural environment or as a switching node of the non-layered architectural environment, and wherein the determined operation mode depends on the statistical distribution factor (see Pars. [0038, 0052 and 0055]).

Regarding **claim 8,** as recited in claim 1, Ejzak discloses the method, wherein the determination of the operation mode comprises a determination of a current load level of the switching node in at least one operation mode, and wherein the determined operation mode for the processing of the requested communications service depends on the determined load level (see Par. [0037]).

Regarding **claim 9,** as recited in claim 1, Ejzak discloses the method, wherein the communication service request requests a subscriber terminal terminating communications service, wherein at least one predetermined rule comprises an assignment of an access technology available to the subscriber terminal to a dedicated operation mode, and wherein the step of determining the operation mode comprises the determination of the access technology available to the terminating subscriber terminal, and the determined operation mode depends on the determined access technology (see Pars. [CDMA and 3GPP, see [0020 and 0080]).

Regarding **claim 10,** as recited in claim 1, Ejzak discloses the method, wherein the switching node processes the requested communications service as a MSC/VLR, if the determined operation mode indicates that the switching node is part of the non-layered architectural environment (see Par. [0012-13 and 0095-96]).

Regarding **claim 11,** as recited in claim 1, Ejzak discloses the method, wherein the switching node processes the requested communications service as a MSC-server, if the determined operation mode indicates that the switching node is part of the layered architectural environment (iMSC server, see Pars. [0095-97] and Fig. 4, step 408).

Regarding **claim 12,** as recited in claim 1, Ejzak discloses the method, wherein the determination of the operation mode comprises a determination of at least one of a group of an origin of the communications service request and a destination of the

communications service request, and wherein the determined operation mode depends on the at least one determined member of the group (see Pars. [0089-91]).

Regarding **claim 13,** as recited in claim 1, Ejzak discloses the method, wherein the switching node is determined operatively to process the requested communication service as part of the non-layered architectural environment, if an origin of the communications service request, in particular an originating radio network node, is local to the switching node, and a destination indicated by the communications service request is local to the switching node (see Pars. 0089-91 and 0103).

Regarding **claim 14,** as recited in claim 1, Ejzak discloses the method, wherein the switching node is determined operatively to process the requested communication service as part of the layered architectural environment , if an origin of the communications service request, in particular an originating radio network node, is remote to the switching node, and a destination indicated by the communications service request is remote to the switching node (see Pars. 0089-91 and 0103).

Regarding **claim 15,** as recited in claim 14, Ejzak discloses the method, wherein the switching node applies local switching, if an origin of the communications service request, in particular an originating radio network node, is local to the destination indicated by the communications service request (see Par. [0081]).

Regarding **claim 16,** as recited in claim 1, Ejzak discloses the method, wherein the switching node is determined operatively to process the requested communication service as part of the layered architectural environment, if an origin of the communications service request, in particular an originating radio network node, is remote to the switching node, and a destination indicated by the communications service request is local to the switching node (service base on location, see Par. [0081]).

Regarding **claim 17,** as recited in claim 1, Ejzak discloses the method, wherein the switching node is determined operatively to process the requested communication service as part of the layered architectural environment, if an origin of the communications service request, in particular an originating radio network node, is local to the switching node, and a destination indicated by the communications service request is remote to the switching node (see Par. [0079-81]).

Regarding **claim 19**, Ejzak discloses a network node, in particular a combined MSC/VLR (tradition MSC) and MSC-server (MSC server or iMSC server) (see Par. [0012-13] and Fig. 1, comprising:

an access network interface for the user plane (interface between 111 and RAN 121, see Fig. 1)

an access network interface for the control plane (see Pars. [0025 and 0030]),

a core network interface for the user plane (see Pars. [0030-32]),

a core network interface for the control plane, a media gateway interface (see Pars. [0030, 0036 and 0047-48]),

a media gateway operation unit connected to the user plane interfaces adapted to provide media gateway functions (see Pars. [0025 and 0030 and 0036]),

a MSC-server operation unit connected to the control plane interfaces and to the media gateway interface, the MSC-server operation unit adapted to provide Msc-server functionality (MSC server 152, and iMSC 201),

a selection unit adapted to determine for a communication service request received via any control plane interface (call set up, see Figs. 4 and 5) , according to at least one predetermined rule an operation mode for a processing of the requested communication service, wherein the determined operation mode indicates whether the network node is operatively for the processing of the requested communication service part of a layered architectural environment providing a user plane layer for user data and a control plane layer for signaling data (see Par. [0094] and Fig. 4, steps 403 and 404), or operatively part of a non-layered architectural environment not providing a split between a user plane and a control plane and a processor connected to the interfaces and units of the switching node, said processor being adapted to process a requested communications service in accordance with a determined operation mode of the network node (see Par. [0096-0100] and Fig. 4, steps 408 and 420).

Regarding **claim 20,** as recited in claim 19, Ejzak discloses the node comprising means for storing (HSS 142), in particular a lookup table, network node identifiers and

related indications, indicating whether the identified network nodes are local or remote to the network node (see Pars. [0048-52).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kauhanen (U.S. 20030157935) teaches an intersystem handover with modified parameter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kwasi Karikari whose telephone number is 571-272-8566. The examiner can normally be reached on M-F (8 am - 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8566.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kwasi Karikari
Patent Examiner.

JOSEPH FEILD
SUPERVISORY PATENT EXAMINER